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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/527,398	03/16/2000	Maximino Aguilar	AUS000147US1	1549

7590 07/28/2003

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EXAMINER

SURYAWANSHI, SURESH

ART UNIT	PAPER NUMBER
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2185

DATE MAILED: 07/28/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/527,398

Applicant(s)

AGUILAR ET AL.

Examiner

Suresh K Suryawanshi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/11/03 amendments.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 August 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-38 are presented for examination.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Huh et al (US Patent no 6,584,559 B1).

4. As per claim 1, Huh et al teach a method for updating a current boot code in a data processing system in which the current boot code is used to load an operating system [fig. 3; col. 1, lines 16-17; col. 2, lines 46-56; col. 3, lines 44-46; col. 4, lines 24-38], the method comprising the data processing system implemented steps of:

loading a current boot code from a non-volatile memory [inherent step in process of booting a system; col. 3, lines 33-35; col. 4, lines 24-25];

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initiating a boot sequence using the current boot code [fig. 3; col. 4, lines 24-25];

searching a storage device for an updated boot code [fig. 3; col.4, lines 24-38; searching if new firmware is present or not and firmware is an ordered set of instructions and/or data that is used in booting a computational system; col. 1, lines 16-17]; and

updating the current boot code [fig. 3; col. 4, lines 24-38; processor determines whether any new firmware is present to upgrade or replace the old firmware].

5. As per claims 2, 20 and 24, Huh et al teach that the storage device is a non-volatile random access memory [col. 3, lines 54-60].

6. As per claims 3, 12, 25 and 34, Huh et al teach that the operating system is stored on the storage device [inherent in the system].

7. As per claims 4 and 16, Huh et al teach that the storage device is a removable storage device locally connected to the data processing system [inherent to a computer system having a floppy drive, CD-ROM drive, etc.].

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8. As per claims 5 and 27, Huh et al teach that loading the operating system using the current boot code if the updated boot code is present [col. 4, lines 24-30; as part of the boot sequence, any new available boot code would be searched and updated with before loading the operating system].

9. As per claims 6 and 28, Huh et al teach that replacing the current boot code with the updated boot code prior to loading the operating system [col. 4, lines 24-30; as part of the boot sequence, any new available boot code would be searched and updated with before loading the operating system].

10. As per claims 7 and 29, Huh et al teach

restarting the data processing system using the new current boot code [inherent in the system to do so otherwise there will be no effect of upgraded code]; and

loading the operating system using the new current boot code [inherent in the system as loading of an operating system does not start until the boot-up procedure completes].

11. As per claims 8 and 30, Huh et al teach that the updated boot code is present if a boot code is present on the storage device in which the boot code is a later version of the current boot code [col. 4, lines 24-30; old one will be replaced or upgraded by new one].

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12. As per claims 9 and 31, Huh et al teach that the updated boot code is present if a boot code is located on the storage device [col. 4, lines 24-30; old one will be replaced or upgraded by new one].

13. As per claim 10, Huh et al teach

loading a current boot code [inherent step in process of booting a system; col. 3, lines 33-35; col. 4, lines 24-25];

searching, by the current boot code, for an updated boot code prior to loading the operating system [fig. 3; col.4, lines 24-38; the current boot code directs the processor to read any new firmware as part of the boot sequence and firmware is an ordered set of instructions and/or data that is used in booting a computational system; col. 1, lines 16-17];

determining, by the current boot code, whether the updated boot code is a later version of the current boot code [fig. 3; col. 4, lines 24-38; the current boot code directs the processor to read any new firmware as part of the boot sequence and determine if new firmware is present];

updating the current boot code using the updated boot code responsive to the updated boot code being a later version of the current boot code [fig. 3; col. 4, lines 24-38; any new firmware is present to upgrade or replace the old firmware].

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14. As per claims 11 and 33, Huh et al teach that searching a local storage device for the updated boot code prior to loading the operating system [as the new code can be updated from a disk; col. 3, lines 44-46].

15. As per claims 13 and 35, Huh et al teach that searching a storage device located remotely to the data processing system for the updated boot code prior to loading the operating system [col. 3, lines 44-48; as downloaded from another computational component, for example, from a web server].

16. As per claims 14 and 36, Huh et al teach that the storage device is located on a server [col. 3, lines 46-48; web server].

17. As per claim 15, Huh et al teach

a bus [inherent in a computer system];

a first storage device connected to the bus, wherein the first storage device includes current boot code instructions [col. 3, lines 34-36; non-volatile memory includes a boot code];

a second storage device connected to the bus, wherein an operating system is located on the second storage device [inherent in a system having a storage device containing an operating system as operating system is the necessary software to operate the system]; and

a processor unit connected to the bus, wherein the processor unit executes the current boot code instructions [col. 4, lines 24-38].

18. As per claim 16, Huh et al teach that updating of the current boot code instructions is performed by replacing the current boot code [col. 4, lines 24-30; new firmware is present to upgrade or replace the old firmware].

19. As per claim 17, Huh et al teach that the processor unit loads the operating system using the current boot code instructions if updated boot code instructions are absent [inherent in any computer system as loading of the operating system does not start until the boot-up procedure completes].

20. As per claim 18, Huh et al teach that the updated boot code instructions are present if any boot code instructions are present on the second storage device [fig. 3; col. 4, lines 24-30].

21. As per claim 19, Huh et al teach that the updated boot code instructions are present if a newer version of the current boot code instruction is present [fig. 3; col. 4, lines 24-30].

22. As per claim 21, Huh et al teach that the second storage device is one of a removable non-volatile random access memory, a hard disk drive, a floppy disk, a CD-ROM, and a DVD-ROM [inherent in a computer system to have a removable non-volatile random access memory; col. 3, lines 44-46; a disk].

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23. As per claim 22, Huh et al teach that the data processing system is one of a laptop computer, a palmtop computer, a personal computer, and a personal digital assistant [inherent; col. 1, line 43; PC].

24. As per claim 23, Huh et al teach a data processing system for updating a current boot code in which the current boot code is used to load an operating system [fig. 3; col. 1, lines 16-17; col. 2, lines 46-56; col. 3, lines 44-46; col. 4, lines 24-38], the data processing system comprising:

loading means for loading a current boot code [inherent step in process of booting a system; col. 3, lines 33-35; col. 4, lines 24-25];

initiating means for initiating a boot sequence using the current boot code [fig. 3; col. 4, lines 24-25];

searching means for searching a storage device for an updated boot code [fig. 3; col.4, lines 24-38; searching if new firmware is present or not and firmware is an ordered set of instructions and/or data that is used in booting a computational system; col. 1, lines 16-17]; and

updating means for updating the current boot code [fig. 3; col. 4, lines 24-38; processor determines whether any new firmware is present to upgrade or replace the old firmware].

25. As per claim 32, Huh et al teach

loading a current boot code [inherent step in process of booting a system; col. 3, lines 33-35; col. 4, lines 24-25];

searching means for searching, by the current boot code, for an updated boot code [fig. 3; col. 4, lines 24-30; as part of the boot sequence, searching if new firmware is present or not and firmware is an ordered set of instructions and/or data that is used in booting a computational system; col. 1, lines 16-17];

determining means for determining, by the current boot code, whether the updated boot code is a later version of the current boot code [fig. 3; col. 4, lines 24-38; the current boot code directs the processor to read any new firmware as part of the boot sequence and determine if new firmware is present]; and

updating means for updating the current boot code [fig. 3; col. 4, lines 24-38; any new firmware is present to upgrade or replace the old firmware].

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26. As per claim 37, Huh et al teach a computer program product in a computer readable medium for updating a current boot code in a data processing system in which the current boot code is used to load an operating system [fig. 3; col. 1, lines 16-17; col. 2, lines 46-56; col. 3, lines 44-46; col. 4, lines 24-38], the computer program product comprising:

first instructions for loading a current boot code [inherent step in process of booting a system; col. 3, lines 34-36; col. 4, lines 24-25];

second instructions for initiating a boot sequence [fig. 3; col. 4, lines 24-25];

third instructions for searching a storage device for an updated boot code [fig. 3; col. 4, lines 24-30]; and

fourth instructions for updating the current boot code [col. 4, lines 24-30; new firmware is present to upgrade or replace the old firmware and firmware is an ordered set of instructions and/or data that is used in booting a computational system; col. 1, lines 16-17].

27. As per claim 38, Huh et al teach

first instructions for loading a current boot code [inherent step in process of booting a system; col. 3, lines 34-36; col. 4, lines 24-25];

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second instructions for searching, by the current boot code, for an updated boot code [fig. 3; col. 4, lines 24-30; as part of the boot sequence, searching if new firmware is present or not and firmware is an ordered set of instructions and/or data that is used in booting a computational system; col. 1, lines 16-17];

third instructions for determining, by the current boot code, whether the updated boot code is a later version of the current boot code [fig. 3; col. 4, lines 24-38; the current boot code directs the processor to read any new firmware as part of the boot sequence and determine if new firmware is present]; and

fourth instructions for updating the current boot code [col. 4, lines 24-30; new firmware is present to upgrade or replace the old firmware].

Response to Arguments

28. Applicant's arguments with respect to claims 1-38 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suresh K Suryawanshi whose telephone number is 703-305-3990. The examiner can normally be reached on 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas C. Lee can be reached on 703-305-9717. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

sks
July 21, 2003



THOMAS LEE
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